

**BOARD OF ENVIRONMENTAL REVIEW
AGENDA ITEM
EXECUTIVE SUMMARY FOR ACTION ON RULE AMENDMENTS**

Agenda #III.A.1.

Agenda Item Summary. The Board proposes repeal of several rules, adoption of one new rule, and adoption of many other amendments to the rules governing the Montana Strip and Underground Mine Reclamation Act (the Act). The purposes of the proposed changes are to:

1. Address changes in the Act passed by the State Legislature in 2001 and 2003.
2. Address changes required by the Office of Surface Mining (OSM) related to some long-standing issues and some more recent changes to federal regulations.
3. Clarify, correct, and streamline a wide range of requirements and text.
4. Remove requirements deemed unnecessary.

List Of Affected Rules. ARM 17.24.301 through 17.24.306, 17.24.308, 17.24.312, 17.24.313, 17.24.315, 17.24.321, 17.24.322, 17.24.324, 17.24.401, 17.24.404, 17.24.405, 17.24.412, 17.24.413, 17.24.416, 17.24.427, 17.24.501, 17.24.515, 17.24.520, 17.24.522, 17.24.523, 17.24.601, 17.24.602, 17.24.603, 17.24.605, 17.24.609, 17.24.623, 17.24.624, 17.24.626, 17.24.633 through 17.24.636, 17.24.638, 17.24.639, 17.24.642, 17.24.645, 17.24.646, 17.24.701 through 17.24.703, 17.24.711, 17.24.714, 17.24.716 through 17.24.718, 17.24.723 through 17.24.726, 17.24.751, 17.24.761, 17.24.762, 17.24.815, 17.24.821, 17.24.823, 17.24.832, 17.24.901, 17.24.903, 17.24.911, 17.24.924, 17.24.927, 17.24.930, 17.24.932, 17.24.1001, 17.24.1002, 17.24.1003, 17.24.1017, 17.24.1018, 17.24.1104, 17.24.1106, 17.24.1108, 17.24.1109, 17.24.1116, 17.24.1125, 17.24.1129, 17.24.1131, 17.24.1132, 17.24.1133, 17.24.1201, 17.24.1202, 17.24.1206, 17.24.1211, 17.24.1212, 17.24.1219, 17.24.1225, 17.24.1226, 17.24.1250, 17.24.1255, 17.24.1263, and 17.24.1301; adopt New Rule I; and repeal ARM 17.24.323, 17.24.719, 17.24.720, 17.24.728, 17.24.730, 17.24.732, 17.24.733, 17.24.824 through 17.24.826

Affected Parties Summary. The proposed rule amendments will affect all current operators and future permittees regulated by the Department under the Coal and Uranium Mining and Prospecting Program. The proposed amendments will also potentially affect the interests of surface owners and lessees of lands being mined or proposed for mining.

Scope Of Proposed Proceeding. The Board is considering final action in this rule-making proceeding.

Background. In expectation of passage of revisions to the Act that were submitted to the 2003 state legislature and for other reasons, representatives of the Montana coal mining industry submitted a package of suggested rule changes to the Department in the spring of 2003. This led to a series of meetings to discuss various proposals and ideas and to exchanges of written materials that extended through 2003 and early 2004 involving the Department, the coal mining industry, and/or representatives of the Northern Plains Resource Council. The rule amendments

proposed in the draft notice published in April of 2004 are the result of these activities. Along with public comments received and a hearing on the draft notice, following publication of the draft notice, additional correspondence and/or discussion among the above interested parties took place on a few of the proposed rule changes. In response to the comments submitted on the draft notice, the Department has modified some proposed amendments to the rules.

Hearing Information. Notice of public hearing was published in the Montana Administrative Register on April 22, 2004. A public hearing was held on May 26, 2004. The public comment period closed on June 4, 2004.

Board Options. The Board may:

1. Adopt, amend, and repeal the rules as proposed in the notice of hearing;
2. Adopt, amend, and repeal the rules with modifications; or
3. Determine that it will not adopt, amend, or repeal the rules.

DEQ Recommendation. The Department recommends that the Board adopt, amend, and repeal the rules in the manner set out in the attached draft notice of adoption, amendment, and repeal.

Enclosures.

1. Presiding officer's report on hearing, including original Notice of Public Hearing.
2. Draft notice of adoption.